



June 3, 2019

Chief Bill Scott
S.F.P.D.
1245 3rd Street
San Francisco, California 94158

Hon. Dennis J. Herrera
San Francisco City Attorney
City Hall
San Francisco, California 94102
cityattorney@sfcityatty.org

Sent via U.S. Mail, Email and submitted online at sfpd.records@sfgov.org.

Re: Public Records Act Request

To the Honorable Chief Scott:

On behalf of the First Amendment Coalition ("FAC"), I hereby request access to the records described below within the possession or control of the S.F.P.D. This request is submitted pursuant to the California Public Records Act ("CPRA"), Article 1, §3(b) of the California Constitution and FAC's rights of access under the San Francisco Sunshine Ordinance. FAC requests the following "records" and "public information" as those terms are defined by Calif. Gov't Code § 6253 and San Francisco Administrative Code § 67.20 relating to any and all reports, investigations or findings regarding any of the following:

- (1) The facts and circumstances surrounding the death of former Public Defender Jeff Adachi; and**
- (2) Any purported criminal conduct by Bryan Carmody, or purported criminal conduct by others which he allegedly witnessed or participated in, on or about February 22 & 23, 2019.**

These records should be accessible under Admin. Code 67.24(d) as there is no prospect of any criminal prosecution regarding: 1) anyone who may have been connected to Mr. Adachi's death; or, 2) any actions purportedly undertaken by Mr. Carmody while newsgathering or reporting on that death.

If you believe that any express provision of law exists to exempt from disclosure all or a portion of the records FAC has requested, you must notify FAC in writing of the reasons for the determination not later than 10 days from your receipt of this request. See, Admin Code §§ 67.21, 67.27; and Cal. Gov't. Code §§ 6253(c), 6255(b). If any portion of the records requested is exempt from disclosure by express provisions of law, Admin Code § 67.26 and Gov't. Code § 6253(a) require segregation and redaction of that material in order that the remainder of the record or information may be released.

Please contact me if you have any questions about this request.

Sincerely,

/s/ Glen A. Smith

Glen A. Smith
FAC Legal Fellow
First Amendment Coalition
gsmith@firstamendmentcoalition.org



LONDON N. BREED
MAYOR

CITY AND COUNTY OF SAN FRANCISCO
POLICE DEPARTMENT
HEADQUARTERS
1245 3RD Street
San Francisco, California 94158



WILLIAM SCOTT
CHIEF OF POLICE

June 06, 2019

Via email gsmith@firstamendmentcoalition.org

Glen Smith
534 4th Street #B
San Rafael, CA 94901

RE: Public Records Request, dated June 03, 2019, Reference # P007914-060319

Dear Glen Smith:

The San Francisco Police Department (SFPD) received your Public Records Act request, dated June 03, 2019.

You requested, "...On behalf of the First Amendment Coalition ("FAC"), I hereby request access to the records described below within the possession or control of the S.F.P.D. This request is submitted pursuant to the California Public Records Act ("CPRA"), Article 1, §3(b) of the California Constitution and FAC's rights of access under the San Francisco Sunshine Ordinance FAC requests the following "records" and "public information" as those terms are defined by Calif. Gov't Code § 6253 and San Francisco Administrative Code § 67.20 relating to any and all reports, investigations or findings regarding any of the following:

- (1) The facts and circumstances surrounding the death of former Public Defender Jeff Adachi; and
- (2) Any purported criminal conduct by Bryan Carmody, or purported criminal conduct by others which he allegedly witnessed or participated in, on or about February 22 & 23, 2019.

These records should be accessible under Admin. Code 67.24(d) as there is no prospect of any criminal prosecution regarding: 1) anyone who may have been connected to Mr. Adachi's death; or, 2) any actions purportedly undertaken by Mr. Carmody while newsgathering or reporting on that death."

This case is an open and ongoing investigation and disclosure of the requested information at this time may endanger successful completion of that investigation. As such, the SFPD declines to release records under Government Code § 6254(f), which exempts from disclosure records of complaints to, investigations conducted by, intelligence information or security procedures of, and investigatory or security files compiled by local police agencies.

Thank you for your courtesy in this regard.

Thank you for your courtesy in this regard.

Sincerely,

Lt. Kathryn Waaland

Lt. Kathryn Waaland
Officer in Charge
Legal Division



June 12, 2019

Lt. Kathryn Waaland
Officer in Charge, Legal Division
S.F.P.D.
1245 3rd Street
San Francisco, California 94158

Hon. Dennis J. Herrera
San Francisco City Attorney
City Hall
San Francisco, California 94102
cityattorney@sfcityatty.org

Sent via U.S. Mail, Email and submitted online at sfpd.records@sfgov.org.

Re: Public Records Act Request

Dear Lt. Waaland:

By letter dated June 6, 2019 you responded to a request for access to public records submitted by the First Amendment Coalition ("FAC"). FAC's request, dated June 3, sought records and public information regarding two separate cases: 1) an investigation into the death of former Public Defender Jeff Adachi; and 2) an investigation into possible criminal conduct by Brian Carmody. Your June 6 letter denied both requests, stating, "This case is an open and ongoing investigation and disclosure of the requested information at this time may endanger successful completion of the investigation." It is not clear which "case" is being referenced.

Any contention that there are "open and ongoing investigations" into the two cases identified in FAC's request is undermined by the findings of the Chief Medical Examiner on Mr. Adachi's death and Chief Bill Scott's May 24 Statement on "Adachi Report Criminal Investigation 19-066." The Medical Examiner concluded that the manner of Mr.

Adachi's death was "Accident." Chief Scott's statement states that the only on-going investigation regarding Mr. Carmody is focused on the execution of search warrants, not on any crimes he may have committed.

San Francisco Administrative Code § 67.24(d) requires the release of the records requested by FAC once there is no longer any prospect of a criminal prosecution. The June 6 letter cites the general law enforcement exemption from the disclosure of records under the California Public Records Act under Gov't Code § 6254(f), but is silent on § 67.24(d). At a minimum, the records FAC requested should be accessible under Admin. Code 67.24(d) as there is no prospect of any criminal prosecution regarding: 1) Mr. Adachi's death; or, 2) any actions purportedly undertaken by Mr. Carmody while newsgathering or reporting on that death.¹

Please confirm that there is an open and ongoing investigation into Mr. Adachi's death and criminal acts purportedly committed by Mr. Carmody. If not, the records FAC requested should be released. Please contact me if you have any questions about this letter or FAC's June 3 request.

Sincerely,

/s/ Glen A. Smith

Glen A. Smith
FAC Legal Fellow
First Amendment Coalition
gsmith@firstamendmentcoalition.org

CC Phil Matier

¹ FAC does not waive any objections to the assertion that the records it seeks are exempt from disclosure under Gov. Code section 6254(f).



LONDON N. BREED
MAYOR

CITY AND COUNTY OF SAN FRANCISCO
POLICE DEPARTMENT
HEADQUARTERS
1245 3RD Street
San Francisco, California 94158



WILLIAM SCOTT
CHIEF OF POLICE

June 24, 2019

Via email gsmith@firstamendmentcoalition.org

Glen Smith
534 4th Street #B
San Rafael, CA 94901

RE: Public Records Request, dated June 03, 2019, Reference # P007914-060319

Dear Glen Smith:

The San Francisco Police Department (SFPD) received your Public Records Act request, dated June 03, 2019.

You requested, "...On behalf of the First Amendment Coalition ("FAC"), I hereby request access to the records described below within the possession or control of the S.F.P.D. This request is submitted pursuant to the California Public Records Act ("CPRA"), Article 1, §3(b) of the California Constitution and FAC's rights of access under the San Francisco Sunshine Ordinance FAC requests the following "records" and "public information" as those terms are defined by Calif. Gov't Code § 6253 and San Francisco Administrative Code § 67.20 relating to any and all reports, investigations or findings regarding any of the following:

- (1) The facts and circumstances surrounding the death of former Public Defender Jeff Adachi; and
- (2) Any purported criminal conduct by Bryan Carmody, or purported criminal conduct by others which he allegedly witnessed or participated in, on or about February 22 & 23, 2019.

These records should be accessible under Admin. Code 67.24(d) as there is no prospect of any criminal prosecution regarding: 1) anyone who may have been connected to Mr. Adachi's death; or, 2) any actions purportedly undertaken by Mr. Carmody while newsgathering or reporting on that death."

On June 6, the SFPD responded to your public records request.

On June 18, the SFPD received your follow up request for the following:

You requested, "...Please confirm that there is an open and ongoing investigation into Mr. Adachi's death and criminal acts purportedly committed by Mr. Carmody. If not, the records FAC requested should be released. Please contact me if you have any questions about this letter or FAC's June 3 request."

The investigation regarding former Public Defender Jeff Adachi and the investigation regarding Mr. Carmody are both open and ongoing investigations and disclosure of the requested information at this time may endanger successful completion of those investigations. As such, the SFPD declines to release records under Government Code § 6254(f), which exempts from disclosure records of complaints to, investigations conducted by, intelligence information or security procedures of, and investigatory or security files compiled by local police agencies.

Thank you for your courtesy in this regard.

Sincerely,

Lt. Kathryn Waaland
Officer in Charge
Legal Division



June 4, 2019

Hon. London N. Breed
Mayor of San Francisco
City Hall, Rm. 200
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102
mayorlondonbreed@sfgov.org

***Sent via U.S. Mail, Email and submitted online at
mayorsunshinerequests@sfgov.org***

Re: Public Records Request

To the Honorable Ms. Breed:

On behalf of the First Amendment Coalition ("FAC"), I hereby request access to records within the possession or control of the Mayor, the Office of the Mayor and its relevant staff. This request is submitted pursuant to the California Public Records Act ("CPRA"), Article 1, §3(b) of the California Constitution and FAC's rights of access under the San Francisco Sunshine Ordinance. FAC requests "records" and "public information," as those terms are defined by Calif. Gov't Code § 6252 and San Francisco Administrative Code § 67.20, for the categories of documents listed in the attached exhibit.

This request includes responsive public records that may be found on the personal electronic devices of the Mayor and members of her staff. See, Memorandum from the Office of the City Attorney dated March 24, 2017.

If you believe that any express provision of law exists to exempt from disclosure all or a portion of the records FAC has requested, you must notify FAC in writing of the reasons for the determination not later than 10 days from your receipt of this request. See, Admin Code §§ 67.21, 67.27; and Cal. Gov't. Code §§ 6253(c), 6255(b). If any portion of the records requested is exempt from disclosure by express provisions of law, Admin Code § 67.26 and Gov't. Code § 6253(a) require segregation and redaction of that material in order that the remainder of the record or information may be released.

Please contact me if you have any questions about this request and copy David Snyder, listed below, on any correspondence..

Sincerely,

/s/ Glen A. Smith

Glen A. Smith
Legal Fellow
First Amendment Coalition
gsmith@firstamendmentcoalition.org

cc dsnyder@firstamendmentcoalition.org

JUNE 4 PUBLIC RECORDS REQUEST TO MAYOR BREED.

1. Records of communications received or sent by the Mayor and the Office of the Mayor, including email, texts and other similar messaging systems, regarding:
 - a. The apparent leak or disclosure of a police report about the circumstances surrounding the death of former Public Defender Jeff Adachi;
 - b. Press reports about the circumstances surrounding the death of former Public Defender Jeff Adachi;
 - c. The need or desire to identify the sources of information and documents used in press reports regarding circumstances surrounding the death of former Public Defender Jeff Adachi; and,
 - d. The status or progress of any investigations into the sources of documents or information used in any press reports regarding the circumstances regarding the death of former Public Defender Jeff Adachi.

To be clear, this request seeks records of communications (a) between the Mayor and members of the Office of the Mayor; and (b) between the Mayor and any member of the Office of the Mayor and any third party, including but not limited to the Board of Supervisors, other individuals associated with or employed by the City San Francisco or other government agencies, and members of the public.

2. Records of communications received or sent by the Mayor and members of the Office of the Mayor, including email, texts and other similar messaging systems, regarding:
 - a. The execution of search warrants on the home and office of Bryan Carmody on May 10, 2019;
 - b. Press reports about the execution of search warrants on the home and office of Bryan Carmody;
 - c. The need to investigate the execution of search warrants on the home and office of Bryan Carmody;

- d. The issuance of any press releases or public statements regarding the execution of search warrants on the office and home of Bryn Carmody.
- e. The execution of search warrants for the cell-phone of Bryan Carmody.

To be clear, this request seeks records of communications (a) between the Mayor and members of the Office of the Mayor; and (b) between the Mayor or any member of the Office of the Mayor and any third party, including but not limited to individuals associated with city, the Board of Supervisors or other government agencies and members of the public.

- 3. Records and Public Information regarding agenda file number 190232 and the Introduction Form for that item, including records and Public Information regarding any reports from the City Attorney or the S.F.P.D in response to that agenda item.
- 4. Calendar entries for the Mayor and members of the Office of the Mayor regarding any meetings or discussions of agenda item 190232, the purported leak of police records regarding the death of former Public Defender Jeff Adachi or the execution of any search warrants for the home, office or cell-phone records of Brian Carmody.

----- Forwarded message -----

From: **MayorSunshineRequests, MYR (MYR)** <mayorsunshinerequests@sfgov.org>

Date: Fri, Jun 14, 2019 at 5:29 PM

Subject: RE: Public Records Act Request

To: Glen Smith <gsmith@firstamendmentcoalition.org>, Breed, Mayor London (MYR)

Dear Glen,

This responds to your public records request below, received by the Office of the Mayor via email on June 4, 2019. We have conducted a diligent search and are providing herewith responsive records located in the possession of the Office of the Mayor.

Please note that certain personal information such as private email and residential addresses have been redacted to avoid an unwarranted breach of personal privacy. See Cal. Govt. Code Secs. 6254(c), 6254(k); California Constitution, Art. I, Sec. 1.

Please also note that we are responding on behalf of the Office of the Mayor only and not on behalf of other City Departments. If you have questions about your request or would like to make another public records request please let us know.

Best Regards,

Hank Heckel

Compliance Officer

Office of Mayor London N. Breed

City and County of San Francisco

(415) 554-4796

From: Glen Smith <gsmith@firstamendmentcoalition.org>
Sent: Tuesday, June 18, 2019 2:03 PM
To: MayorSunshineRequests, MYR (MYR) <mayorsunshinerequests@sfgov.org>
Cc: Breed, Mayor London (MYR) <mayorlondonbreed@sfgov.org>; David Snyder <dsnyder@firstamendmentcoalition.org>
Subject: Re: Public Records Act Request

Thank you for the prompt response to FAC's request. After going through the documents we are concerned that the response is incomplete. Before getting into the details, we would like to confirm that no responsive documents have been withheld based on some claimed exemption. Your June 14 email refers only to redactions but we just want to make sure that nothing else has been held back.

The June 4 request sought records related to two general topics, news accounts regarding the death of former Public Defender Jeff Adachi and the investigation of Bryan Carmody. All of the documents we received seem to relate to Mr. Carmody only. We are surprised that no documents covered by the first category of the June 4 request (regarding Mr. Adachi) were released. This causes us to question if there was a thorough search for responsive documents. Also, FAC has obtained from other sources a May 26 email to the Mayor from the Police Commission regarding a press release concerning both Mr. Adachi and Mr. Carmody. This email was not included in the June 14 response which causes us, once again, to question the scope of the search.

None of the records that we received seem to involve the Mayor directly (even though the May 26 email referenced above did so). We also note that the search should have included personal communications devices as required by the California Supreme Court in City of San Jose v. Superior Court, 2 Cal. 2d 608 (2017).

In light of our concerns, please double-check the Mayor's June 14 response to make sure it is complete. Please contact me if you have any questions about FAC's June 4 request or this email.

Glen A. Smith | Legal Fellow | First Amendment Coalition

gsmith@firstamendmentcoalition.org | 415-460-5060
534 4th St. #B | San Rafael, CA 94901

<https://firstamendmentcoalition.org>

----- Forwarded message -----

From: **MayorSunshineRequests, MYR (MYR)** <mayorsunshinerequests@sfgov.org>

Date: Fri, Jun 28, 2019 at 8:02 PM

Subject: RE: Public Records Act Request

To: Glen Smith <gsmith@firstamendmentcoalition.org>, MayorSunshineRequests, MYR (MYR) <mayorsunshinerequests@sfgov.org>

Cc: Breed, Mayor London (MYR) <mayorlondonbreed@sfgov.org>, David Snyder <dsnyder@firstamendmentcoalition.org>

Glen,

We have done a thorough and diligent search for records responsive to your request below. We have gone back and searched for the specific Police Commission communication you reference and have located it. This document was inadvertently omitted from the initial production. Please see attached.

We will double check to ensure the provision of any potential remaining documents for your search topics relating to press accounts regarding the circumstances surrounding the death of former Public Defender Jeff Adachi and the investigation of Bryan Carmody. We have not withheld any potentially responsive files on the basis of any privileges or exemptions to date and will inform you if any such exemptions or privileges apply.

To the extent we locate any additional responsive documents, we will provide them on a rolling basis.

Regards,

Hank Heckel

Compliance Officer

Office of Mayor London N. Breed

City and County of San Francisco